

C/CAG

CITY/COUNTY ASSOCIATION OF GOVERNMENTS
OF SAN MATEO COUNTY

*Atherton • Belmont • Brisbane • Burlingame • Colma • Daly City • East Palo Alto • Foster City • Half Moon Bay • Hillsborough • Menlo Park
Millbrae • Pacifica • Portola Valley • Redwood City • San Bruno • San Carlos • San Mateo • San Mateo County • South San Francisco • Woodside*

AGENDA

The next meeting of the Legislative Committee
will be as follows.

PLEASE NOTE THAT WE WILL BE MEETING AT 6:00 P.M.

in the 2nd Floor Auditorium !!

Date: Thursday, June 14, 2007 – 6:00 p.m. to
7:00 p.m. Dinner will be served.
Place: San Mateo County Transit District Office¹
1250 San Carlos Avenue
2nd Floor Auditorium
San Carlos, California

PLEASE CALL DIANA SHU (599-1414) IF YOU ARE UNABLE TO ATTEND.

- | | | | |
|----|--|---|--|
| 1. | Public comment on items not on the agenda. | Presentations are limited to 3 minutes. | 6:00 p.m.
5 minutes. |
| 2. | Approval of minutes from May 10, 2007. | Action (Shu) | Pages S2
6:05 p.m.
5 minutes |
| 3. | Briefing from C/CAG's Lobbyist in Sacramento

A position may be taken on any legislation, including legislation not previously identified. | Potential Action (Wes Lujan) | No attachments
6:10 p.m.
20 minutes |
| 4. | Follow up on SB 286 – Prop 1B Funding for Local Streets and Roads | Information Only (Shu) | Pages S4 attachments
6:30 p.m.
5 minutes |

¹From Route 101 take the Holly Street (west) exit. Two blocks past El Camino Real go left on Walnut. The entrance to the parking lot is at the end of the block on the left, immediately before the ramp that goes under the building. Enter the parking lot by driving between the buildings and making a left into the elevated lot. Follow the signs up to the levels for public parking.

- | | | | | |
|-----|---|------------------------------|-------------------------|------------------------|
| 5. | Support SCA 12 (Yee and Torlakson) –
Amendment to the State Constitution
Regarding Fees for Stormwater and
Urban Runoff | Action
(Shu) | Pages S5
attachments | 6:35 p.m.
5 minutes |
| 6. | Support ACA 8 (De La Torre)
Amendment to the State Constitution
Regarding Eminent Domain
And AB 887 (De La Torre)
Redevelopment: Eminent Domain:
Relocation Assistance | Action
(Shu) | Pages S6
attachments | 6:40 p.m.
5 minutes |
| 7. | Legislative Priorities | Potential Action
(Shu) | Pages S7
attachments | 6:45 p.m.
5 minutes |
| 8. | Establish date and time for next meeting. | Action
(Gordon) | | 6:50 p.m.
5 minutes |
| 9. | Other Items/Comments from Guests. | Potential Action
(Gordon) | | 6:55 p.m.
5 minutes |
| 10. | Adjournment. | Action
(Gordon) | | 7:00 p.m. |

NOTE: All items appearing on the agenda are subject to action by the Committee. Actions recommended by staff are subject to change by the Committee.

Add Burnett

SB 279
SB 230.
SEA 12

Send info
not C/CAG Business.
Get info to cities.

45
end 6:40.
Next mtg. —
5 / 6:00

P.O. ✓
✓ K.
A- Mark ✓
5:00-6:00.

**CITY/COUNTY ASSOCIATION OF GOVERNMENTS
LEGISLATIVE COMMITTEE**

**MINUTES
MEETING OF MAY 10, 2007**

At 6:05 P.M. Chairwoman Deborah Gordon called the meeting to order in the Second Floor Auditorium at the San Mateo Transit District Office.

Committee Members Attending:

Deborah Gordon, Chair (C/CAG Member - Town of Woodside)
Tom Kasten, Vice Chair (C/CAG Member - Hillsborough)
Linda Koelling (C/CAG Member - Foster City)
Rosalie O'Mahony (C/CAG Member - City of Burlingame)
* Larry Formalejo for Joe Silva (C/CAG Member - City of Colma)
X Sepi Richardson (C/CAG Member - City of Brisbane)

Guests or Staff Attending:

✓ Richard Napier (C/CAG Executive Director)
✓ Mary McMillan (County of San Mateo, Deputy County Manager)
x David Burruto (Senator Leland Yee's Office)
x Jim Bigelow (CMEQ Committee)
x Wes Lujan (Advocation)- in person
x Brian Lee (Deputy Director Engineering and Resource Protection, SMC DPW)
✓ Diana Shu, (C/CAG Staff)

1. Public comment on items not on the agenda.

None.

2. Approval of minutes from February 10, 2007.

Quorum: minimum 5 voting members present

Motion:

Tom Kasten, first

Rosalie O'Mahony second

Motion passed 6-0

3. Support for SB 286 (Lowenthal and Dutton) Transportation Bonds: Implementation

- a. Staff provided a summary of SB 286 and its potential impact to the cities and county if the bill is approved. Under the Governor's January budget, only \$600 million was proposed for local streets and road funds out of the \$2 billion voter approved bond initiative (Proposition 1B). If SB 286 is approved, \$1B will be budgeted for local streets and roads.
- b. Per SB 286, cities and county will need to send a list of proposed projects, adopted by the city council or county board, to the State Department of Finance and follow up with an end of year report listing projects completed and expenses

Approved
A Y
1 A
0 N

incurred. Cities and counties will have up to two years to expend these funds or lose the funding per this bill.

- c. Committee recommends to the board to support SB 286.
- d. **Action: Diana Shu to provide a list of proposed mandates to cities and the county per this proposal.**

4. Opposition for SB 303 (Ducheny) Housing Element Law

- a. Proposed bill requires several unfounded mandates for local jurisdictions.
- b. League of California Cities and the California State Association of Counties are both working with Senator Ducheny to revise the bill so that these mandates are adequately addressed. However, there still remains structural deficiencies in the bill such as the 10 year RHNA data with the 5 year planning and two year zoning implementation requirements that leave most jurisdictions with a difficult task to undertake.
- c. Committee recommends to the board to oppose SB 303 in its current revision.
- d. **Action Diana Shu: send letter opposing the passage of SB 303 as written.**

5. Briefing from C/CAG's Lobbyist in Sacramento (teleconference)

- a. Wes Luhan reported on AB 468 (AVA). Wes is scheduled to meet with CHP on Friday May 11, 2007 to discuss issues that CHP has regarding definitions of the AVA and rollover of funds. C/CAG staff is scheduled to meet with the Assembly Appropriations Committee Consultant on May 17, 2006 to discuss the financial impacts of this bill on the AVA program.
- b. Wes also reported on the status of SB 613. The bill made it out of Senate with no votes to spare. It will go to Assembly but the Chair has not determined the date of the next hearing. To date, only a limited (9) copies of Letters for Support from C/CAG members have been received by staff. These letters are critical to the passage of SB 613 in the Assembly as members in the Assembly tend to vote along party lines.
 - i. **Action:** Diana to follow up on letters of support with businesses and agencies.
- c. Other State issues focus on:
 - i. Prison Reform package
 - ii. Tribal Gaming
 - iii. Water Bonds Implementation
 - 1. Perata
 - a. SB1001 – Water board changes in membership of committees and board processes
 - b. SB 1002 – Appropriation of bond revenues
 - 2. Ackerman – SB 334 State Water Policy (Failed)
 - 3. Torlakson – SB 976 San Francisco Bay Area Water Transit Authority (Ferry Services)

6. **Review and approval of C/CAG Legislative Positions and Legislative Update**
 - a. Staff received requests to review AB 468, and SB 613 as reported above.
 - b. **Action: Diana Shu to continue to monitor legislation and requests for review on specific bills.**
7. **Establish date and time for next meeting.**
 - a. June 14, 2007 at 5:00 PM Second Floor Auditorium at the San Mateo Transit District Office.
8. **Other Items/Comments from Guests**
 - a. David Burruto (Senator Leland Yee's Office) – again offered his assistance and the assistance of his staff help with local issues.
9. **Adjournment**
 - a. The meeting was adjourned at approximately 6:00 P.M

CapitolTrack™

◀ BACK

AB 230
- Broadmoor
Police

SB 286 Lowenthal Transportation bonds: implementation.**Status:** 6/7/2007 In Assembly. Read first time. Held at Desk.**Current Location:** 6/7/2007 A-DESK

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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[Status](#)[History](#)[Short Summary](#)[Long Summary](#)[User Summary](#)[Digest](#)**Calendar****Manage Bills** [add](#)[notification](#)[edit](#)

C/CAG/Support//Diana Shu

[archive](#)**Bill Text**

Amended - 6/4/2007

[html](#) [pdf](#) [word](#)

Amended - 5/14/2007

[html](#) [pdf](#) [word](#)

Amended - 5/2/2007

[html](#) [pdf](#) [word](#)

Amended - 4/9/2007

[html](#) [pdf](#) [word](#)

Introduced - 2/15/2007

[html](#) [pdf](#) [word](#)**Analyses**SENATE RULES COMMITTEE 6/5/2007 [html](#)SENATE APPROPRIATIONS COMMITTEE FISCAL SUMMARY 5/31/2007 [html](#)SENATE APPROPRIATIONS COMMITTEE FISCAL SUMMARY 5/21/2007 [html](#)SENATE TRANSPORTATION & HOUSING COMMITTEE BILL NO: 4/20/2007 [html](#)**Votes**SEN. FLOOR - 6/7/2007 (Y:35 N:2 A:3) [html](#)SEN. APPR. - 5/31/2007 (Y:16 N:0 A:1) [html](#)SEN. APPR. - 5/21/2007 (Y:16 N:0 A:1) [html](#)SEN. T. & H. - 4/24/2007 (Y:10 N:1 A:0) [html](#)**Affecting Same Code**AB 992 Roads: stormwater containment.

Government Code 8879.23

SB 19 Trade corridors: projects to reduce emissions: funding.

Government Code 8879.23

SB 9 Trade corridor improvement: transportation project selection.

Government Code 8879.23

People who track SB 286 also track:86% SB 45 Transportation funds: transit system safety[\(tracking\)](#)85% SB 47 Transportation bonds.[\(tracking\)](#)80% SB 19 Trade corridors: projects to reduce emissions: funding.[\(tracking\)](#)80% SB 9 Trade corridor improvement: transportation project selection.[\(tracking\)](#)79% AB 901 Transportation: Highway Safety, Traffic Reduction, Air Quality, and Port[\(tracking\)](#)

Security Bond Act of 2006.

Governor Message

Attachments/Links

Create new attachment/link [new](#)

C/CAG AGENDA REPORT

Date: June 1, 2007
To: C/CAG Legislative Committee
From: Richard Napier, C/CAG Executive Director
Subject: Follow up on SB 286 – Prop 1B Funding for Local Streets and Roads
(For further information contact Diana Shu at 599-1414)

RECOMMENDATION

None. For information only

FISCAL IMPACT

None.

SOURCE OF FUNDS

Not applicable.

BACKGROUND/DISCUSSION

At the May 10, 2007 meeting, the committee requested that an outline of potential action required by the cities and the county be listed for information.

On May 14, the Governor, issued his May Revisions to the proposed 2007-08 State budget. Figure BTH -01 summarizes his proposal for transportation. Meanwhile, the Assembly and Senate Budget Subcommittee on Transportation met to discuss recommendations for the allocation of the \$2 Billion Local Streets and Roads funding. The Senate recommends a \$400 million allocation while the Assembly is consistent with the Governor's proposal, recommends a \$600 million allocation.

The issue is now with the Joint Budget Conference Committee for review. Meanwhile, SB 286 has been approved by the Senate with amendments by a 16-0 vote.

Figure BTH-01
Planned Proposition 1B Implementation
(Dollars in Millions)

	Budget Bill Appropriations			Total Three-year Appropriations
	2007-08	2008-09	2009-10	
Corridor Mobility	\$610	\$1,577	\$1,229	\$3,416
Transit	\$600	\$350	\$350	\$1,300
State Transportation Improvement Program	\$739	\$799	\$274	\$1,812
Local Streets and Roads	\$600	\$300	\$150	\$1,050
Trade Infrastructure	\$202	\$302	\$302	\$806
State Highway Operation and Protection Program	\$405	\$267	\$24	\$696
State/Local Partnership	\$202	\$197	\$200	\$599
Grade Separations	\$123	\$123		\$246
Highway 99	\$16	\$109	\$302	\$427
School Bus Retrofit	\$97	\$97		\$194
Local Seismic	\$14	\$11	\$11	\$36
Air Quality Improvement	\$111			\$111
Port, Harbor, and Ferry Terminal Security	\$178	\$123	\$101	\$402
Intercity Rail	\$190	\$74	\$128	\$392
Total Appropriations	\$4,087	\$4,329	\$3,071	\$11,487

ATTACHMENTS

Outline of potential action by cities and counties if SB 286 becomes law.

2007-05-31

Prop. 1B Update: Assembly and Senate Budget Subcommittees Differ on Funding Allocation Recommendations

The Assembly and Senate Budget Subcommittees on Transportation met this week to make their recommendations for the allocation of the \$2 billion included in Proposition 1B for cities and counties (split evenly at \$1 billion each). While the League of California Cities is advocating for the full \$1 billion to cities in FY 2007-08, both subcommittees had very different recommendations.

The Senate recommendation was to provide \$400 million split evenly between cities and counties. This represents just 20 percent of cities' guaranteed allocation. The Assembly recommendation was consistent with the Governor's May Budget Revision, which proposed an allocation of \$600 million, split evenly between cities and counties.

Because the subcommittees disagree, the issue was referred to the Joint Budget Conference Committee (comprised of members of both Assembly and Senate subcommittees), to reconcile the differences on the allocation question. The Joint Budget Conference Committee is tentatively scheduled to begin deliberations on Friday, June 1.

The League continues to advocate that cities have projects ready to go. Accelerating payments to cities to fund these projects will meet the goals of both the Governor and legislative leadership. It also keeps faith with the voters by delivering much needed transportation improvements to every community in California.

Any delay in receiving bond funds will result in project delays. Additionally, minimizing appropriations levels will likely lessen the purchasing power of the bonds **and it will limit the ability to construct many mid and large-size projects.**

Take Action!

The League is asking cities to contact the Governor's office to request the full \$1 billion appropriation in FY 2007-08. A sample letter is located at www.cacities.org/infrastructure.

last updated 5/25/2007

Outline

SB 286 Proposals as of May 14, 2007

Subsection:

Local Street and Road Improvement, Congestion Relief, and
Traffic Safety Account of 2006

Allocation Formula:

1. Two billion dollars (\$2,000,000,000)
2. Two (2) cycles that cover four (4) years, in order to allow each eligible local agency to spend the funds in two (2) periods of two (2) years each.
3. Allocate at least one-half (1/2) of each local agency's allocation amount in the first cycle of payments, which shall be made no later than January 1, 2008.
4. Each city shall receive at least four hundred thousand dollars (\$400,000)
5. The money in the account, and any interest or other return on money in the account, shall be allocated in the following manner:
 - i. Fifty percent (50%) to the counties.
 1. Seventy-five percent (75%): vehicles registered in the state.
 2. Twenty-five percent (25%): miles of maintained county roads
 - ii. Fifty percent (50%) to the cities (total population of the city)/ (total population of all the cities in the state)

Project Eligibility

1. Funds shall be used for improvements:
 - a. Transportation facilities that will assist in reducing local traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety that may include, but not be limited to:
 - i. Street and highway
 - 1. Pavement maintenance**
 - 2. Pavement Rehabilitation**
 - 3. Pavement Installation**
 - 4. Pavement Construction and reconstruction of necessary associated facilities such as drainage and traffic control devices**
 - ii. Maintenance, rehabilitation, installation, construction and reconstruction of facilities that expand rider-ship on transit systems,
 - iii. Safety projects to reduce fatalities
 - iv. Local match to obtain state or federal transportation funds for similar purposes.
 - v. Projects to be funded shall not include the funding of transit operating costs.

Requirements

1. A city, county, or city and county shall submit to the Department of Finance, upon appropriation of bond funds by the Legislature:
 - a. **A list of projects** expected to be funded with bond funds pursuant to an **adopted** city or county budget.
 - i. The list shall not limit the flexibility of the applicant to fund projects in accordance with local needs and priorities.
 - ii. All projects funded with these bond funds shall be included within the city, county, or city and county budget that is adopted by the applicable city council or board of supervisors at a regular public meeting.
 - b. A city, county, or city and county shall submit documentation of **expenditure** of bond funds made available under this subdivision to the Department of Finance including:
 - i. **The name of each project**
 - ii. **The location**
 - iii. **The amount of the expenditure**
 - iv. **The completion date and**
 - v. **Estimated useful life**
2. The documentation shall be made available at the **end of each fiscal year** until the bond funds are accounted for.
3. The information provided shall be posted on the Internet Web site of the Department of Finance.
4. At the end of each fiscal year during which a city or county expends the funds it has received under this subdivision, the Controller may verify the city's or county's compliance.
 - a. Any city or county that has not complied
 - i. shall reimburse the state for all ineligible expenditures for that fiscal year.
 - ii. Any funds withheld or returned as a result of a failure to comply shall be **reallocated** to the other counties and cities whose expenditures are in compliance.
5. A city or county receiving funds pursuant to this subdivision shall have **three (3) fiscal years** to expend the funds from the date that the funds are allocated by the Controller
 - a. *Any funds not expended within that period shall be returned to the Controller*
 - b. *Be reallocated to cities or counties per above allocation formulas*
 - c. *Excluding the requirement for a minimum city allocation of \$400,000.*

If SB 286 passes then the following schedule for providing lists and reports to the Department of Finance **may** apply for one (1) cycle:

Fiscal Year	Calendar Year	DPW/other Department	Council /Board	Design/Construction
06-07	July 1, 2006			
	June 30, 2007	Prepares list of projects		
07-08	July 1, 2007		Adopts budget and sends Project list to Department of Finance	Design
	January 1, 2008	Funds available from State		Design
	June 30, 2008	Send report of Expenditures to Department of Finance		Design/Construct
08-09	July 1, 2008		Adopts budget and sends Project list to Department of Finance	Design/Construct
	June 30, 2009	Send report of Expenditures to Department of Finance		Construct
09-10	July 1, 2009		Adopts budget and sends Project list to Department of Finance	Construct
	June 30, 2010	Send report of Expenditures to Department of Finance		Final Pay adjustments complete

C/CAG AGENDA REPORT

5/0

Date: June 14, 2007
To: C/CAG Legislative Committee
From: Richard Napier, C/CAG Executive Director
Subject: **Support SCA 12 (Yee and Torlakson) – Amendment to the State Constitution Regarding Fees for Stormwater and Urban Runoff**

MH
LK

(For further information contact Diana Shu at 599-1414 or Richard Napier at 599-1420)

RECOMMENDATION

Support SCA 12 (Yee and Torlakson) – Amendment to the State Constitution Regarding Fees for Stormwater and Urban Runoff.

FISCAL IMPACT

None.

SOURCE OF FUNDS

Not applicable.

BACKGROUND/DISCUSSION

In 2005, C/CAG supported ACA 13 (Harman) that would allow a parcel tax voting exemption for flood control and stormwater pollution prevention. However, ACA 13 was withdrawn by the author after the first policy hearing.

The current proposal is similar to ACA 13 but it simply states that Stormwater and Urban Runoff be added to the list of exemptions from a 2/3 vote of the electorate residing in the area affected by the fee or charge.

Under Prop 218, passed by voters in 1996, the California Constitution conditions the imposition or increase of a property-related fee or charge by a city, county, or special district for flood control purposes upon compliance with requirements.

1. Written notice to property owners,
2. A public hearing as an opportunity for majority protest,
3. Requires a 2/3 vote of the electorate residing in the area affected by the fee or charge.

Therefore, in order to gain a super majority outcome, cities and counties are forced to spend funds to educate the general public using funds it would otherwise use on other necessary programs. Estimated costs of educating the public is approximately \$5 to \$10 per household. Costs includes studies, reports, mailings, and telephone support. Typically, these measures fail to

Existing

gain the required 2/3 vote because voters simply do not understand the need to maintain and replace infrastructure before it fails.

This measure would exclude Prop 218 requirements from all flood control and stormwater pollution prevention programs (NPDES) that are mandated by the Federal Clean Water Act.

ACTION

Vote to support, oppose, neutral, or watch pending changes.

Staff recommends a “support” position.

This item is C/CAG priority item #1.2:

“Support efforts to exempt NPDES from the super majority voting requirements.”

ATTACHMENTS

- SCA 12 – as introduced
- Memo from City of Burlingame Information on SCA 12
- Support letter from City of Burlingame

BILL NUMBER: SCA 12 INTRODUCED
BILL TEXT

INTRODUCED BY Senators Torlakson and Yee

MAY 21, 2007

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 6 of Article XIII D thereof, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SCA 12, as introduced, Torlakson. Local government: property-related fees.

The California Constitution, with the exception of fees or charges for sewer, water, and refuse collection services, conditions the imposition or increase of a property-related fee or charge upon approval by either a majority vote of the owners of the properties subject to the fee or charge or, at the option of the agency imposing the fee or charge, by a 2/3 vote of the voters residing in the area affected by the fee or charge.

This measure would additionally exclude fees and charges for stormwater and surface water drainage from these approval requirements for the imposition or increase of a property-related fee or charge.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2007-08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 6 of Article XIII D thereof is amended to read:

SEC. 6. Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the

public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, ~~and~~ stormwater and surface water drainage, or refuse collection services, ~~no property-related~~ a property-related fee or charge shall not be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section.

Information about SCA 12

Memo

DATE: May 21, 2007
TO: Interested Parties
FROM: Senator Leland Yee
SUBJECT: New Legislation: SCA 12

I am writing to seek your support for new legislation to protect our oceans, bays, and other waterways.

SCA 12 (Yee and Torlakson)
Storm Water and Urban Runoff
As introduced May 21, 2007

Summary:

This legislation amends the California Constitution to make fees and charges for storm water and urban runoff management work the same way as fees for garbage collection, sewer treatment, and water.

Background:

Proposition 218, approved by California voters in 1996, requires either a majority of property owners or a two-thirds vote of residents in a specific area to raise property-related fees. Fees for water, sewer and garbage collection services were specifically exempted from the voter approval requirements. An agency's Board of Directors can adjust these fees when necessary.

After Prop. 218 passed, the federal Clean Water Act placed more responsibility on local governments to monitor and treat storm water and urban runoff. This runoff washes pollution and debris into storm drains and eventually into creeks, rivers, bays, and oceans. This runoff can significantly damage aquatic habitat and has been attributed to beach closings and advisories.

This Constitutional Amendment gives voters the opportunity to create an additional resource for local governments to fund storm water and urban runoff management programs. These needs were not anticipated when Prop. 218 passed. Because runoff

causes pollution and places public health at risk, storm water and urban runoff should be added to this short list of exemptions.

If approved by both houses of the Legislature, this SCA would be placed before California voters at the next regularly scheduled General Election.

Status: Introduced May 21, 2007

Sponsor: Senators Yee and Torlakson

Contact:

Kirsten Wallerstedt, Senior District Representative, Senator Leland Yee: 650-340-8840
Janelle Beland, Chief of Staff, Senator Leland Yee: 916-651-4008

Letters of Support should be addressed and mailed to:

Honorable Senator Negrete McLeod, Chair

Senate Local Government

State Capitol, Room 5046

Sacramento, CA 95814

Send a copy via mail or fax to:

Senator Leland Yee

State Capitol, Room 4048

Sacramento, CA 95814

Fax: (916) 327-2186

Letters should be sent as soon as possible

May 24, 2007

The Honorable Senator Negrete McLeod, Chair
Senate Local Government
State Capitol, Room 5046
Sacramento, CA 95814

Dear Senator McLeod:

I am writing on behalf of the Burlingame City Council to seek your support for SCA 12, the California Constitutional Amendment that would allow cities to charge user fees for storm drainage infrastructure in the same way that fees are collected for garbage collection, sewage treatment and water.

It was surely an oversight that storm drainage was not among the specific exemptions included in Proposition 218, which was approved by the state's voters in 1996. Since then, the federal Clean Water Act has placed more responsibility on local governments to monitor and treat storm water and urban runoff. Yet cities have not been given any additional federal or state funds to meet the stringent requirements of this legislation.

Let me explain why I feel we need SCA 12. Our City Council, numerous city staff members and a group of residents worked very hard to try to pass a general obligation bond for flood control last November. We spent \$130,000 in city funds to educate voters in a nonpartisan campaign and dug into our own pockets to pay for expensive mailings to voters via a PAC that we formed. During the campaign, which began in late July and lasted until Election Day, we held weekly three-hour meetings and often emailed back and forth during the early morning hours to prepare handouts and presentations for local groups. We spent so much time responding to inquiries about the measure that we had little time to focus on other city issues. Many of us spent a good portion of every weekend in October walking precincts.

I have worked on school bond measures and found there were always many parents willing to help with these efforts, but finding support for a flood control measure was much more difficult. It was hard to persuade people to vote to tax themselves for something they don't understand and harder still to get them to contribute to the campaign and spend time working on it. Just mentioning the words "flood control" caused many people's eyes to glaze over. Even people living in flood zones were unwilling to work on the campaign.

It is generally accepted in political circles that any well-organized opposition group will cause a measure requiring a two-thirds vote to fail. That is what happened in this case. A handful of new homeowners protested the "unfairness" of a measure that taxed them using the same formula as Proposition 13 and convinced other new homeowners to join them. In the end, the measure failed to attain the required two-thirds vote by just a couple of percentage points.

Since then, we have explored a variety of other funding mechanisms and have discovered that each alternative would alienate another group of voters. The new homeowners who fought the previous ballot measure have vowed to redouble their efforts if we choose a funding method that they don't endorse. To compound the problem, the voters have been deluged by a number of school bond measures in recent years and are showing "bond fatigue." A recent financial scandal in one local school district makes them highly suspicious of all bond measures.

In addition, funding tax proposals takes money away from important city needs. For example, our city staff asked us at the council meeting last evening to spend \$50,000 for the preliminary study for what would ultimately be a \$190,000 campaign to create a utility users district, which is just one of several proposals we might explore to try to find a way to fund storm drainage improvements.

Meanwhile, our 75-year-old storm drainage system continues to age, and we are forced to react to problems and patch the system rather than do the complete overhaul warranted. We were able to keep up with the biggest repairs until the economic downturn after Proposition 13, when we had to slash our budget and do less maintenance than we would have liked. Now the backlog of repairs needed is substantial (\$39 million), and we cannot foresee a time when we will catch up.

We live in fear of major flooding each winter, and we do not have a solution. We know that many other cities face the same dilemma, yet we are told we have little hope of qualifying for state funding, which is focused on repairing levees in the Delta and regional repairs.

It seems unreasonable that we can collect fees from ratepayers for garbage, water and sewage treatment services, but not for storm drainage. I hope you will support this important legislation.

Sincerely,

Terry Nagel
Mayor

cc/ Senator Leland Yee

AB 887 De La Torre Redevelopment: eminent domain: relocation assistance.

Status: 6/5/2007 Referred to Com. on RLS. From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.

Current Location: 6/5/2007 S-RLS.

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Bill Text

Amended - 6/5/2007

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Amended - 4/24/2007

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Introduced - 2/22/2007

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Analyses

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Votes

ASM. FLOOR - 5/21/2007 (Y:50 N:13 A:16) [html](#)

ASM. U. & C. - 5/7/2007 (Y:10 N:1 A:1) [html](#)

Affecting Same Code

People who track **AB 887** also track:

83%	SB 5	Flood management.	(tracking)
79%	SCA 1	Eminent domain: condemnation proceedings.	(tracking)
77%	ACA 2	Eminent domain.	(tracking)
77%	SB 27	Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement Act of 2008.	(tracking)
77%	AB 1602	Environment: Sustainable Communities and Urban Greening Program.	(tracking)

Governor Message

Attachments/Links

Create new attachment/link [new](#)

C/CAG AGENDA REPORT

Date: June 14, 2007
To: C/CAG Legislative Committee
From: Richard Napier, C/CAG Executive Director
Subject: **Support ACA 8 (De La Torre) - Amendment to the State Constitution Regarding Eminent Domain and AB 887 (De La Torre) - Redevelopment: Eminent Domain: Relocation Assistance**

(For further information contact Diana Shu at 599-1414)

RECOMMENDATION

Support ACA 8 (De La Torre) - Amendment to the State Constitution Regarding Eminent Domain and AB 887 (De La Torre) - Redevelopment: Eminent Domain: Relocation Assistance (both bills revised in their entirety on May 31, 2007 and June 5, 2007 respectively.)

FISCAL IMPACT

None.

SOURCE OF FUNDS

Not applicable.

BACKGROUND/DISCUSSION

League of California Cities is urging cities and counties to support the revised ACA 8, revised in its entirety, and associated AB 887 to ensure that homeowners and small businesses are given strong protections against eminent domain.

ACA 8 is intended for the 2008 ballot. If approved by the voters, the constitution will be amended to state that:

1. Local government must specify the use of the land taken under eminent domain and may not acquire the property for purposes of conveying it to another party unless so specified. If the land is not used for public purposes, then the prior owner shall be given a reasonable opportunity to repurchase it before the property may be used for other than public use.
2. Does not apply to properties with written offer to purchase date on or before Jan 1, 2008.
3. Applies to all relevant sections of the constitution regarding eminent domain

4. Protects homeowners and small businesses against properties taken under eminent domain then given to private developers

AB 887 is a companion bill for ACA 8. If approved:

1. On or after January 1, 2008, redevelopment agencies will need to notify the owner and the tenant 45 days before taking any action.
2. The notification must include provisions to allow the owner, tenant, and small business owner, with less than or equal to 25 full time employee, an opportunity to be included in the redevelopment otherwise,
3. The agency must provide reasonable relocation assistance.

Supported by League of California Cities and California State Association of Counties

Other Bills on Eminent Domain Issues include but limited to:

- ACA 2 (Waters) Eminent Domain
- SB 698 (Torlakson) Eminent Domain

ATTACHMENTS

- ACA 8 Amended May 31, 2007
- AB 887 Amended June 5, 2007
- Questions and Answers about ACA 8 and AB 887
- League of California Cities – Eminent Domain Reform Package Introduced
- Board Coalition Introduces Eminent Domain Reform Package

ACTION

Committee to recommend to board to support, oppose, neutral, or watch pending changes in the bill.

Staff recommends supporting ACA 8 and AB 887 as amended in the May 31, 2007 version.

- This item is a C/CAG priority item:
Guard the right of local jurisdictions to establish and enforce local land use policy (support the efforts of the League, but do not take an active role)."

BILL NUMBER: ACA 8 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 31, 2007

INTRODUCED BY Assembly Member ~~Huffman~~ De La
Torre

(Principal coauthors:
Assembly Members Huffman, Jones, and
Mullin)

MARCH 13, 2007

A resolution to propose to the people of the State of California
an amendment to the Constitution ~~of the State, by amending~~
~~Section 4 of Article XIII A thereof, by amending Section 2 of Article~~
~~XIII C thereof, and by amending Section 18 of Article XVI thereof,~~
~~relating to local development.~~ of the State, by
amending Section 19 of Article I thereof, relating to eminent domain.

LEGISLATIVE COUNSEL'S DIGEST

ACA 8, as amended, ~~Huffman~~ De La Torre
. ~~Local government finance: special taxes and~~
~~indebtedness.~~ Eminent domain.

The California Constitution authorizes private property to be
taken or damaged for public use only when just compensation has been
paid to, or into court for, the owner of the property.

This measure would require the public use for which the private
property is taken to be stated in writing, prior to the commencement
of eminent domain proceedings.

The measure would prohibit the state and local governments from
acquiring by eminent domain an owner-occupied residence, or real
property on which a small business is operated, for the purpose of
conveying that property to a private person, except as specified.

The measure would provide that if the property ceases to be used
for the stated public use, the former owner would have the right to
reacquire the property, as specified. The measure would provide
procedures for reacquisition of the property and for assessment of
the value of the reacquired property.

~~The California Constitution conditions the imposition, extension,~~
~~or increase of a special tax by a local government, as defined, upon~~
~~the approval of 2/3 of the voters of the local government voting on~~
~~that tax, except in the case of special ad valorem property taxes~~
~~imposed by certain school entities that may impose these taxes with~~
~~the approval of 55% of their voters.~~

~~This measure would instead condition the imposition, extension, or~~
~~increase, of special taxes by a local government that has adopted a~~
~~specified ordinance upon the approval of 55%, rather than 2/3, of the~~
~~entity's voters voting on the tax.~~

~~The California Constitution conditions the incurrence of any~~
~~indebtedness or liability by specified local governmental entities~~
~~upon the approval of 2/3 of the voters of the entity, with certain~~
~~exceptions that include allowing a school district, community college~~
~~district, or county office of education to issue general obligation~~

~~bonds under specified conditions with the approval of 55% of the voters.~~

~~This measure would instead condition the incurrence of any indebtedness or liability by specified local governmental entities that have adopted a specified ordinance upon the approval of 55%, rather than 2/3, of the entity's voters voting on the incurrence.~~

~~This measure would make conforming changes to related provisions.~~

Vote: 2/3. Appropriation: no. Fiscal committee: ~~no~~
yes . State-mandated local program: no.

Resolved, by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2007-08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First-- That Section 19 of Article I thereof is amended to read:

SEC. 19. (a) (1)

Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(2) Prior to the commencement of eminent domain proceedings, the public use for which the private property is taken shall be stated in writing.

(b) The State or a local government shall not acquire an owner-occupied residence by eminent domain for the purpose of conveying the real property to a private person.

(c) The State or a local government shall not acquire by eminent domain any real property on which a small business is operated, for the purpose of conveying the real property to a private person.

(d) Notwithstanding subdivision (c), real property that is within the area included in a comprehensive plan to eliminate blight and on which a small business is operated may be acquired by eminent domain for the purpose of conveying the property to a private person only if the small business owner is first provided a reasonable opportunity to participate in the plan. If the small business owner does not participate in the plan, the owner shall be paid reasonable relocation expenses or an amount not less than the fair market value of the small business, at the option of the small business owner. No payment made pursuant to this subdivision shall duplicate any other payment to which the small business may be entitled for the same purpose under law.

(e) Subdivisions (b) and (c) do not apply if the stated public use is a public work or improvement. However, if the owner-occupied residence or property on which a small business is located is acquired by eminent domain for a public work or improvement, the owner from whom it was acquired shall have a reasonable opportunity to repurchase the property, in accordance with subdivision (g), before its conveyance for a use other than a public work or improvement.

(f) When any private property was acquired by eminent domain for public use, and the State or local government determines that the property is no longer required for public use, the owner from whom the property was acquired shall have a reasonable opportunity to repurchase the property in accordance with subdivision (g) before its conveyance by the State or a local government for other than a public use.

(g) The opportunity of the prior owner to repurchase the property shall be subject to all of the following:

(1) The State or local government shall use reasonable diligence to locate the former owner.

(2) The opportunity to repurchase shall be at the then current fair market value. However, if the property acquired by eminent domain was an owner-occupied residence, the opportunity to repurchase shall be at a price equal to the assessed value to be enrolled for the property under paragraph (3), increased by the fair market value of any improvements, fixtures, or appurtenances added by the State or local government.

(3) Upon reacquisition by the property owner from whom the property was acquired, the assessed value of the property shall be the value in the year of acquisition by the State or local government, adjusted as authorized by subdivision (b) of Section 2 of Article XIII A. If the property is reacquired by the property owner, then the acquisition by the State or local government, and the reacquisition by the property owner, shall not constitute a "change of ownership" for purposes of subdivision (a) of Section 2 of Article XIII A.

(4) The opportunity to repurchase applies only to the property owner from whom the property was acquired, and does not apply to any heirs or successors of the owner, or, if the owner was not a natural person, to an entity that ceases to legally exist. The opportunity to repurchase may be waived in writing.

(5) The Legislature may provide a procedure that constitutes a reasonable opportunity to repurchase, and may specify the contents of written notice of the opportunity to repurchase.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Conveyance" means a transfer of real property, whether by sale, lease, gift, franchise, or otherwise.

(2) "Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.

(3) "Owner-occupied residence" means real property that is improved with a single family residence such as a detached home, condominium, or townhouse, and that is the owner's principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. "Owner-occupied residence" also includes a residential dwelling unit attached to or detached from the single family residence, if the attached dwelling unit provides complete independent living facilities for one or more persons.

(4) "Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.

(5) "Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical services, public health services, libraries, flood protection, streets or highways, public transit, railroads, airports and

seaports, utilities, common carrier or other similar projects such as energy-related, communication-related, water-related and waste-water-related facilities or infrastructure, projects identified by a State or local government for recovery from natural disasters, and private uses incidental to, or necessary for, the public work or improvement.

(6) "Small business" means a business employing no more than the equivalent of 25 full-time employees, but does not include the owner of the real property that is acquired if the primary business of that owner is to lease the real property to others.

(7) "State" means the State of California and any of its agencies or departments.

(i) Subdivisions (b) and (c) do not apply when the State or a local government exercises the power of eminent domain for the purpose of protecting public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.

Second-- Paragraph (2) of subdivision (a) of, and subdivisions (b) to (i), inclusive, of, Section 19 of Article I of the California Constitution, which would be added by this measure, do not apply to the acquisition of real property if the initial written offer to purchase the property was made on or before January 1, 2008, and a resolution of necessity to acquire the real property by eminent domain was adopted on or before December 31, 2008.

Third-- The words and phrases used in paragraph (2) of subdivision (a) of, in subdivisions (b) to (g), inclusive, of, and in subdivision (i) of, Section 19 of Article I of the California Constitution, which would be added by this measure, and which would not be defined in subdivision (h) of that section, shall be defined and interpreted in a manner that is consistent with the law in effect on January 1, 2007, and as that law may be amended or construed thereafter.

Fourth-- Paragraph (2) of subdivision (a) of, and subdivisions (b) to (j), inclusive, of, Section 19 of Article I of the California Constitution, which would be added by this measure, shall be liberally construed in furtherance of their intent to provide homeowners and small businesses with protection against exercises of eminent domain in which property is subsequently conveyed to a private person.

Fifth-- The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2007-08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:~~

~~First-- That Section 4 of Article XIII A thereof is amended to read:~~

~~Section 4. Except as otherwise provided by subdivisions (b) and (c) of Section 1, a city, a county, and a special district shall not impose a special tax in the form of an ad valorem tax on real property or a transaction tax or sales tax on the sale of real property within the city, county, or special district.~~

~~Second-- That Section 2 of Article XIII C thereof is amended to~~

~~read:~~

~~SEC. 2. Notwithstanding any other provision of this Constitution:~~

~~(a) Any tax imposed by any local government is either a general tax or a special tax. A special purpose district or agency, including a school district, has no authority to levy a general tax.~~

~~(b) A local government shall not impose, extend, or increase any general tax unless and until that imposition, extension, or increase is submitted to the electorate and approved by a majority vote of its voters voting on the issue. A general tax is not deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.~~

~~(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, may continue to be imposed only if that general tax is approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held no later than November 6, 1996, and in compliance with subdivision (b).~~

~~(d) (1) Except as otherwise provided by paragraph (2) and by subdivision (c) of Section 1 of Article XIII A, a local government shall not impose, extend, or increase any special tax unless and until that imposition, extension, or increase is submitted to the electorate and approved by two thirds of the voters voting on the issue. A special tax is not deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.~~

~~(2) Under the authority of an ordinance that is adopted by its governing body and approved by two thirds of its voters voting on the ordinance, a local government may impose, extend, or increase a special tax that the local government is otherwise authorized by law to impose, if that imposition, extension, or increase is submitted to the electorate and approved by 55 percent of its voters voting on the issue.~~

~~Third -- That Section 18 of Article XVI thereof is amended to read:~~

~~SEC. 18. (a) A county, city, town, township, board of education, or school district, shall not incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for that year unless both of the following conditions are met:~~

~~(1) Except as otherwise provided in subdivision (b), the indebtedness or liability is approved by two thirds of the voters of the public entity voting at an election to be held for that purpose.~~

~~(2) Before or at the time of incurring the indebtedness, provision is made for the collection of an annual tax sufficient to pay the interest on the indebtedness as it falls due, and to provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed 40 years from the time of contracting the indebtedness.~~

~~(b) Notwithstanding paragraph (1) of subdivision (a), all of the following apply:~~

~~(1) With respect to any type of public entity enumerated in subdivision (a) that is authorized to incur indebtedness for public school purposes, any proposition to incur indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing, or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school~~

~~use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition.~~

~~(2) On or after November 8, 2000, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition. This subdivision shall apply to a proposition to incur indebtedness in the form of general obligation bonds for the purposes specified in this subdivision only if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.~~

~~(3) Under an ordinance that is adopted by its governing body and is approved by two thirds of its voters voting on the ordinance, a public entity enumerated in subdivision (a) may provide that a proposition, to incur any indebtedness or liability that the public entity is otherwise authorized by law to incur, shall be adopted upon the approval of 55 percent of its voters voting on the proposition.~~

~~(c) When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two thirds or a majority or 55 percent of the voters, as the case may be, voting on any one of these propositions, vote in favor thereof, the proposition shall be deemed adopted.~~

BILL NUMBER: AB 887 AMENDED
BILL TEXT

AMENDED IN SENATE JUNE 5, 2007
AMENDED IN ASSEMBLY APRIL 24, 2007

INTRODUCED BY Assembly Member De La Torre
(Principal coauthors:
Assembly Members Huffman, Jones, and
Mullin)

FEBRUARY 22, 2007

~~An act to amend Section 739.7 of the Public Utilities Code, relating to public utilities.~~ An act to add Sections 33391.5 and 33415.5 to the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 887, as amended, De La Torre. ~~Residential rates; inverted rate structure.~~ Redevelopment: eminent domain: relocation assistance.

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities for the purposes of addressing the effects of blight, as defined. A redevelopment agency is authorized to employ various methods for the acquisition of real property for redevelopment, including acquisition by eminent domain.

This bill would require a redevelopment agency, on and after January 1, 2008, to comply with certain notification requirements prior to adopting a resolution of necessity for the purposes of acquiring property by eminent domain, and within a specified time prior to taking certain action relating to redevelopment.

(2) The Community Redevelopment Law requires a redevelopment agency to provide relocation assistance to persons and families displaced by redevelopment.

This bill would require a redevelopment agency to provide certain relocation assistance to small businesses that are displaced by redevelopment and do not participate in the redevelopment project.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission, in establishing residential rates, to retain an inverted rate structure.~~

~~This bill would require the commission, when establishing the inverted rate structure, to be consistent with the policies of affordability and conservation.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 33391.5 is added to the Health and Safety Code , to read:

33391.5. (a) On and after January 1, 2008, an agency shall comply with this section prior to adopting a resolution of necessity under Article 2 (commencing with Section 1245.210) of Chapter 4 of Title 7 of Part 3 of the Code of Civil Procedure to acquire property by eminent domain.

(b) The agency shall mail by first-class mail to the owner and tenant of each parcel of real property within the area that may be subject to acquisition by the agency the notice described in subdivision (c) at least 45 days prior to taking any of the following actions:

(1) A solicitation for the redevelopment of any portion of the project area through a request for proposals, a request for qualifications, or any other similar method.

(2) The approval of an agreement to negotiate exclusively, or any other agreement having the effect of limiting the negotiation for the sale or lease of specified real property to an identified party or parties where the agency has not previously notified property owners and tenants pursuant to paragraph (1).

(3) The approval of a disposition and development agreement, an owner participation agreement, or any other agreement having the effect of obligating the agency to acquire or consider the acquisition of real property for conveyance to a private person or entity where the agency has not previously notified property owners and tenants pursuant to paragraph (1) or (2).

(c) The notice required under subdivision (b) shall state all of the following:

(1) Describe the proposed action.

(2) Explain the agency's obligation to do the following:

(A) Provide reasonable opportunities for participation in the redevelopment of property in the project area by the owners of all or part of the property if the owners agree to participate in the redevelopment in conformity with the redevelopment plan.

(B) Extend reasonable preferences to persons who are engaged in business in the project area to reenter business within the redeveloped area if they otherwise meet the requirements prescribed by the redevelopment plan.

(3) Invite the owner and tenant to submit to the agency any of the following:

(A) A proposal to redevelop the owner's or tenant's real property, or any other real property within the project area, or any combination thereof, in conformity with the redevelopment plan, including, but not limited to, any design for development, any design guidelines, or any other development criteria adopted by the agency pursuant to the redevelopment plan, together with a description of the owner's or tenant's development experience, qualifications, and financial resources.

(B) A proposal to reenter business within the redeveloped area.

(4) Notify any small business owner of the agency's obligation to pay certain attorneys fees, as required under subdivision (g).

(5) Provide the owner and tenant with a minimum of 30 days from the date of the written notification to respond.

(d) The notice required under subdivision (b) shall be mailed to property owners and tenants as shown on the records of the county assessor and to those other tenants who have requested the notice in writing. If the agency has acted in good faith to comply with the notice requirements of this section, the failure of the agency to provide the required notice to owners or tenants unknown to the agency shall not invalidate any subsequent action of the agency.

(e) (1) Prior to authorizing the execution of an agreement to negotiate exclusively, a disposition and development agreement, an owner participation agreement, or any similar agreement, the agency shall consider in good faith and either accept or reject a proposal submitted by an owner or tenant in response to the notification required by subdivision (b). The acceptance or rejection shall be based upon objective criteria, which may include, but are not limited to, any of the following:

(A) The extent to which the proposal would further the purposes or objectives of the agency as set forth in the redevelopment plan or in any design for development, design guidelines, or other design or development criteria adopted by the agency pursuant to the redevelopment plan.

(B) Conformity of the proposal with the agency's adopted owner participation rules.

(C) The owner's or tenant's experience, qualifications, and financial resources.

(2) In addition to the objective criteria listed in paragraph (1), the agency may consider the need to assemble multiple parcels into sites large enough to accommodate modern development patterns, the conversion of property from private to public use, and any other factors that have the effect of reducing the number of, or limiting the type of, owner participation or business reentry opportunities.

(f) The agency may adopt developer selection guidelines that establish reasonable preferences for nonprofit developers of residential and mixed-use developments that include housing affordable to persons and families of low and moderate income.

(g) (1) A small business to which an agency is required to give notice pursuant to subdivision (b) shall receive from the agency its reasonable attorney's fees actually incurred, not to exceed five thousand dollars (\$5,000), for advising the small business owner or tenant concerning any of the following:

(A) The preference extended to businesses to reenter into business within the redeveloped area.

(B) The opportunity afforded owners and tenants to participate in the redevelopment of the project area in accordance with the redevelopment plan.

(C) The proposed action described in the notice.

(2) The agency shall make the payment required under this subdivision to the small business upon receipt of an itemized statement describing the services performed and fees charged by the attorney.

(h) For the purposes of this section, "small business" means a business employing no more than the equivalent of 25 full-time employees. "Small business" does not include the owner of real property acquired by the agency, if the primary business of that owner is to lease the real property to others.

(i) This section does not apply to property to be acquired for use for a public work or improvement, and to property to be acquired for private uses incidental to, or necessary for, the public work or improvement.

SEC. 2. Section 33415.5 is added to the Health and Safety Code, to read:

33415.5. (a) If an agency acquires real property for conveyance to a private person or entity that will result in the displacement of a small business, and the small business does not participate in the project, all of the following shall apply:

(1) If the small business relocates, the small business shall be paid the actual and reasonable expenses necessary to reestablish the

small business, but not to exceed fifty thousand dollars (\$50,000), in addition to one of the following:

(A) An amount that will compensate a displaced small business tenant for the increased cost of renting a comparable replacement business location for a period not to exceed three years.

(B) An amount that will compensate a displaced small business property owner for any increased interest costs that the owner is required to pay for financing the acquisition of a comparable replacement business location for a period not to exceed three years.

(2) If the small business does not relocate, the owner of the small business may elect to be paid one of the following:

(A) A payment that is equivalent in amount to that authorized under subdivision (c) of Section 7262 of the Government Code,

(B) An amount equal to the fair market value of the small business.

(C) An amount equal to 125 percent of the fair market value of the business, if the small business demonstrates to the satisfaction of the agency that it cannot be relocated and remain economically viable.

(3) A small business may receive payment under either paragraph (1) or paragraph (2), but shall not receive payment under both of those paragraphs.

(b) The payment required under this section shall not duplicate any other compensation received by the small business tenant or owner for the same purpose under Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code or Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

(c) For the purposes of this section, "small business" means a business having 25 or fewer full-time equivalent employees. "Small business" does not include the owner of real property acquired by the agency, if the primary business of that owner is to lease the real property to others.

~~SECTION 1. Section 739.7 of the Public Utilities Code is amended to read:~~

~~739.7. When establishing residential rates, the commission shall retain an appropriate inverted rate structure, consistent with the policies of affordability and conservation. If the commission increases baseline rates pursuant to Section 739, revenues resulting from those increases shall be used exclusively to reduce nonbaseline residential rates.~~

Questions and Answers About

ACA 8 and AB 887 - The Eminent Domain Reform Act of 2007/2008

<http://www.eminentdomainreform.com/FAQ/>

Following the 2005 U.S. Supreme Court decision in *Kelo vs. the City of New London*, much attention has been focused on abuses of eminent domain. In that case, the Supreme Court permitted a city to use eminent domain to take the home of a Connecticut woman for the sole purpose of economic development. To provide California homeowners and small businesses with additional protections from eminent domain abuse, a broad-based coalition of homeowners, small businesses, taxpayer, local government, environmental and public safety leaders is supporting a responsible package of eminent domain reforms.

Q. What is the Eminent Domain Reform Act and what do these measures do?

A. This package would provide California homeowners and small businesses with new and unprecedented protections against the use of eminent domain for private development. It contains two measures, a constitutional amendment (ACA 8) and a statutory measure, Assembly Bill 887.

- **ACA 8, the constitutional amendment would:**
 - Prohibit the use of eminent domain to take an owner occupied home (including townhomes and condos) to convey to another private party
 - Prohibit the use of eminent domain to take a small business property to convey to another private party except as part of a comprehensive plan to eliminate blight and only after the small business owner is first given the opportunity to participate in the revitalization plan.
 - Place into our constitution a "right to repurchase" provision. A home or small business property acquired by eminent domain must be offered for resale to the original owner if the government does not use the property for its original stated public use.
- **AB 887 would increase fairness for small businesses owners confronted with eminent domain. Among the key provisions of this measure:**
 - If the small business does not participate in the revitalization plan it can choose between relocating or receiving the value of the business.
 - If the small business relocates, it will receive fair market value of the real property plus all reasonable moving expenses, expenses to reestablish the business at a new location, and compensation for the increased cost of rent or mortgage payments for up to 3 years.
 - If the small business does not elect to relocate or cannot be relocated and remain economically viable, it will be bought out and provided fair market value of the real property (if owned by the small business) and 125% of the value of the business.

Q. How are the constitutional and statutory pieces related?

A. These measures are a package. We provide protections for homes and small businesses in the constitutional measure. But the compensation issues for small businesses need to be dealt with by statute.

Q. What ballot are you aiming for?

A. Our goal is to get this on the ballot in 2008. We need to work with the legislature to determine what election makes the most sense.

Q. Will this gain enough legislative support to reach 2/3 vote required to place the constitutional amendment on the ballot?

A. This package contains strong reforms that should appeal to members of both sides of the aisle. This is not a partisan issue. We're confident that members on both sides of the aisle are ready to vote for honest and strong eminent domain reforms.

Q. How does this package provide "new" protections?

A. The new protections in this package are significant. For the first time, we're providing a constitutional prohibition on the taking of homes for private development. We're also placing constitutional restrictions on the taking of small businesses for conveyance to a private party, and mandating new compensation requirements for small businesses. If this package passes the legislature and is approved by voters, these provisions would provide ironclad, constitutional protections for homeowners and small businesses that currently do not exist.

Q. Why didn't you outright prohibit using eminent domain on small businesses?

A. Our measure provides strong, constitutional protections for small businesses they currently do not have. We are placing a requirement in the constitution that before a small business in a blighted area is acquired by eminent domain, the small business must first be given a reasonable opportunity to participate in the redevelopment of the area. At the same time, this measure still allows communities to revitalize downtrodden and blighted areas, where social and economic deterioration, including serious criminal activity, needs to be cleaned up.

Eminent domain became a front burner issue because of the U.S. Supreme Court *Kelo* decision in 2005. Even though *Kelo* could not have even happened in California, we know voters want ironclad protections against having homes taken by eminent domain and being turned over to a private developer. We are giving them those protections AND also going further to provide additional small businesses protections. We believe this is a solid eminent domain reform package. We think California voters will see that too.

Q. You define small business as 25 or fewer employees. Won't that exclude many small businesses?

A. According to the California Employment Development Department, small businesses with fewer than 20 employees represent 89% of all businesses in California. <http://www.caInis.ca.gov/file/indsize/Chart-SOB2005.pdf>. Thus, our measure provides

protections for nearly 90% of all businesses in the state and is particularly focused on those smaller businesses that typically don't have the resources or time to adequately represent themselves in eminent domain proceedings.

Q. ACA 8 continues to allow the taking of a small business in order to eliminate blight. That's the existing standard. Doesn't that mean small businesses aren't really given new protections under this package?

A. ACA 8 sets up a NEW constitutional standard and adds a NEW layer of protection for small businesses from the use of eminent domain. ACA 8 includes a NEW constitutional requirement that a small business owner must be given an opportunity to participate in new development area before eminent domain can be used to eliminate blight. That's a significant revision to existing law. ACA 8 and the companion statutory measure also establish new requirements mandating increased compensation or relocation expenses be paid when a small business owner chooses not to participate, or is unable to participate, in the new revitalization plan.

Q. Can't a home still be taken and given to a private individual if it is "incidental to or necessary for a public work or improvement"?

A. This is a smokescreen by opponents. ACA 8 provides an ironclad, constitutional protection against taking a home by eminent domain for conveyance to another private party. Existing law permits private uses incidental to the public use for which the property is taken. Public facilities frequently include some relatively minor private uses such as street-level retail shops in a public parking garage or private concessions in parks. Under existing law, the presence of these incidental private uses does not negate the public character of the use and eminent domain may be used to acquire the property even though there may be some incidental private benefit in connection with the public facility. This provision of the measure merely confirms that this common sense rule in existing law is not being changed.

Q. There is an exception in the provisions of ACA 8 for public health and safety. Isn't that a broad loophole?

A. No. Existing law permits a public agency to use the power of eminent domain to protect its citizens from an immediate threat to the public health and safety. Examples could include a structure used repeatedly for serious criminal activity (e.g., a "crack house") or property that is the source of environmental contamination that may spread to adjoining neighborhoods. This provision merely affirms that this power of public agencies to protect citizens from an immediate harm is not limited by the measure.

Q. Why aren't you protecting farmland in this measure?

A. Farmland is already protected from being taken by eminent domain for redevelopment. Existing law prohibits inclusion of Williamson Act land and other land in agricultural use larger than 2 acres in a redevelopment project area. Redevelopment project areas must also be in predominately urban areas, and farmland is rarely - if ever - the target of eminent domain to convey to another private party.

Q. Why aren't you protecting churches in this measure?

A. There are legitimate policy reasons we did not include churches in this measure. In particular, there are two problems: (1) What is a church? and (2) What is worship? We are very reluctant to get government into the business of defining these terms because of traditional notions of separation of church and state.

Q. Why aren't rental properties included?

A. Under existing law, renters are provided relocation assistance and may be provided an opportunity to move back into a revitalized housing development. And this measure preserves the ability of local governments to deal with problem properties in blighted areas where the property owner is absentee or a slumlord. For instance, in Sacramento, eminent domain was used as a last resort to acquire Franklin Villas, a violent and socially distressed neighborhood that was plagued by routine homicides, car jackings, drive-by shootings, gang activity, and illegal drugs. Families were living in over-crowded and substandard housing conditions. Today, crime is down by nearly 40 percent and seniors and families are living in completely refurbished affordable apartments.

Q. Does your new (expansive) definition of local government actually expand the number of agencies that can use eminent domain?

A. No, quite the contrary. The definition of "local government" in ACA 8 is intended to be all-inclusive and ensure the provisions of the measure restrict ALL local government entities' use of eminent domain. Similar language defining local governments was found in Proposition 90.

Q. Are there any guidelines as to what the government can ask for a resale price when they don't use a property for a public use and resell to the original owner? What is to keep the government from purchasing property under eminent domain, retaining the property for a number of years, and reselling it for a profit, at the expense of the original owner?

A. A home or small business acquired by eminent domain must be offered for resale to the original owner if the government does not use the property for a public use. For homes, the resale price would be the value of the home at the time it was acquired by the government plus the capped valuation growth as set forth by Prop. 13. In other words, the original owner would be allowed to buy the home back at essentially the same price as if they had owned it the entire time with the minor annual increase in value as set forth by Prop. 13.

Q. Several eminent domain reform measures have been filed with the Attorney General by groups that you say are supportive of the legislative efforts. If they are supportive, why are they pursuing their own measures?

A. We've crafted a responsible and strong package of eminent domain reforms that will provide real protections for homeowners and small businesses. That's why many groups support our initiative. We believe our measure is the preferred vehicle to enact strong and responsible eminent domain reforms.

Q. How does this compare to other eminent domain reform measures now pending at the AG's office?

A. We've crafted a responsible and strong package of eminent domain reforms that will provide real protections for homeowners and small businesses, plain and simple. Some of the other measures pending go much further than just eminent domain reform. Voters rejected Prop. 90 in November because it contained unrelated and extreme provisions. We believe Californians want - and they deserve - honest and strong eminent domain reforms, without any unrelated provisions. And that's what we're trying to do with this package.

Q. What happens if you don't get it through the Legislature this year?

A. We're putting a lot of effort behind this and don't intend to fail. We believe that the Legislature is the best place to achieve responsible eminent domain reform and this package contains provisions that should gain the support of both Democrats and Republicans.

2007-05-31

Eminent Domain Reform Package Introduced

Californians for Eminent Domain Reform, a broad coalition of homeowner groups, small business representatives and labor, environmental, community and ethnic organizations, unveiled a package of eminent domain reforms earlier this week at a press conference in Sacramento.

Authored by Assembly Member Hector De La Torre, D-Southgate, the package has the support of the League of California Cities board of directors, and includes both a constitutional amendment (ACA 8) and a companion statutory measure (AB 887 - soon to be amended). The legislation is aimed at ensuring homeowners and small businesses are given strong protections against eminent domain.

A number of speakers from the coalition joined De La Torre at the press conference announcing the measure. Those delivering remarks included League First Vice President Jim Madaffer; Ken Willis, president, League of California Homeowners; Betty Jo Toccoli, president, California Small Business Association; Frank Moreno, president, State of California Mexican American Chamber of Commerce; Tom Adams, board chair, California League of Conservation Voters and Robert L. Balgenorth, president, State Building and Construction Trades Council of California.

Assembly Constitutional Amendment (ACA) 8 would prohibit the use of eminent domain to take an owner-occupied home to convey to another private party and new restrictions on the taking of small business properties for conveyance to private parties.

ACA 8 intended for the 2008 ballot. If placed on the ballot and approved by the voters, the constitutional amendment would:

- Prohibit the state or local governments from using eminent domain to acquire an owner-occupied home (including townhomes and condos) for transfer to another private party
- Prohibit government from using eminent domain to acquire a small business to transfer to another private party, except as part of a comprehensive plan to eliminate blight and only after the small business owner is first given the opportunity to participate in the revitalization plan
- Require state or local governments that used eminent domain on a home or small business property give the original owner a right to repurchase the property if the property isn't used for a public use

If passed, AB 887 would provide enhanced protections for small business owners confronted with eminent domain. The measure includes the following key provisions:

- If a small business does not participate in the revitalization plan it, can choose between relocating or receiving the value of the business. If the small business relocates, it will receive fair market value of the real property (if owned by the small business); plus all reasonable moving expenses; plus expenses to re-establish the business at a new location, up to \$50,000; plus compensation for the increased cost of rent or mortgage payments for up to three years
- If the small business does not relocate and is bought out, it will receive fair market value of the real property (if owned by the small business) and 125 percent of the value of the business if the business could not have been relocated and remain economically viable

Californians for Eminent Domain Reform, the coalition introducing the measure, includes the following members (list current as of May 21):

- League of California Homeowners
- Small Business Action Committee
- California Small Business Association
- California Mexican-American Chamber of Commerce
- State Building & Construction Trades Council of California

- California League of Conservation Voters
- League of California Cities
- California State Association of Counties
- California Redevelopment Association
- California Business Properties Association

For more information on the coalition, visit www.eminentdomainreform.com. Further updates on the eminent domain reform issue will be reported in *Priority Focus* as information becomes available.

last updated : 5/25/2007



FOR IMMEDIATE RELEASE
May 21, 2007

CONTACT: KATHY FAIRBANKS
916.443.0872

Broad Coalition Introduces Eminent Domain Reform Package

Group Introduces ACA 8 and a Companion Statutory Measure to Protect Homeowners and Small Businesses from Eminent Domain

Sacramento, CA – A broad coalition of homeowner groups, small business representatives, labor, environmental, community and ethnic organizations today joined Assemblyman Hector De La Torre (D-South Gate) in unveiling a package of eminent domain reforms that would provide homeowners and small businesses with new, strong protections against eminent domain. Authored by De La Torre, Assembly Constitutional Amendment 8 and a companion statutory measure (soon to be amended) are in direct response to the U.S. Supreme Court's "*Kelo*" decision. They include a constitutional prohibition on the use of eminent domain to take an owner-occupied home to convey to another private party, as well as new restrictions on the taking of small business properties for conveyance to private parties. ACA 8, the constitutional amendment, is aimed for the 2008 ballot.

"Today we are unveiling a package that would provide California homeowners and small businesses with new and unprecedented protections against eminent domain," said **Assemblymember De La Torre**, author of the legislative package. "Two years ago, the U.S. Supreme Court's infamous '*Kelo*' decision sparked a nationwide outrage focusing on abuses of eminent domain. This package is in direct response to that decision."

Ken Willis, president of the League of California Homeowners said, "If passed by the legislature and approved by the voters, this package would provide California homeowners long overdue protections from eminent domain for private development. The League of California Homeowners wholeheartedly supports this package and will work with our legislators to place the constitutional amendment before the voters in 2008 and to pass the companion statutory measure."

ACA 8, a constitutional amendment to be placed on the 2008 ballot would:

- Prohibit the State or local governments from using eminent domain to acquire an owner-occupied home (including townhomes and condos) for transfer to another private party.
- Prohibit government from using eminent domain to acquire a small business to transfer to another private party, except as part of a comprehensive plan to eliminate blight and only after the small business owner is first given the opportunity to participate in the revitalization plan.
- Right to Repurchase. A home or small business property acquired by eminent domain must be offered for resale to the original owner if the government doesn't use the property for a public use.

(more)

Eminent Domain Reform Package Press Conference Release

5/21/2007

Page 2

The package also includes a companion statutory measure that would provide enhanced protections for small business owners confronted with eminent domain. Key provisions of this measure include:

- If the small business does not participate in the revitalization plan it can choose between relocating or receiving the value of the business. If the small business relocates, it will receive fair market value of the real property (if owned by the small business); plus all reasonable moving expenses; plus expenses to reestablish the business at a new location, up to \$50,000; plus compensation for the increased cost of rent or mortgage payments for up to 3 years.
- If the small business does not relocate and instead is bought out, it will receive fair market value of the real property (if owned by the small business) and 125% of the value of the business if the business could not have been relocated and remain economically viable.

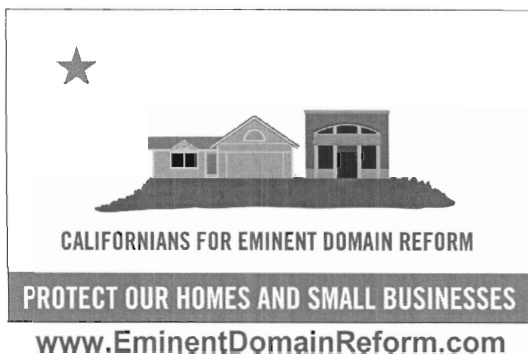
"Combined, this package will provide small business owners with strong protections against eminent domain, and ensure fairness and responsible compensation when a small business owner does not choose to participate in the new development project," **said Betty Jo Toccoli, President of the California Small Business Association** which represents more than 203,000 small business owners through 78 affiliate small business organizations.

Frank Moreno, President of the California Mexican American Chamber of Commerce, said:

"This package is about fairness for minority small businesses, and all small businesses confronted with eminent domain. It will ensure these entrepreneurs are adequately represented, given options to participate in the new business plan, and given fair compensation if they choose not to participate."

Tom Adams, board president of the California League of Conservation Voters, said: "This is a responsible and honest eminent domain reform package. It's time to take care of the eminent domain issue once and for all so that California doesn't continue to be vulnerable to special interests who want to use the issue of eminent domain as a stalking horse to undermine environmental protection like Proposition 90 and some of the eminent domain measures we've seen filed with the Attorney General this year."

###



Yes on Eminent Domain Reform

Protect Our Homes and Small

Following the 2005 U.S. Supreme Court decision in *Kelo vs. the City of New London*, much attention has been focused on abuses of eminent domain. In that case, the Supreme Court permitted a city to use eminent domain to take the home of a Connecticut woman for the sole purpose of economic development. To provide California homeowners and small businesses with additional protections from eminent domain abuse, a broad-based coalition of homeowners, small businesses, taxpayer, local government, environmental and public safety leaders is supporting a responsible package of eminent domain reforms.

Solution: The Eminent Domain Reform Act of 2007/2008

Assemblymember Hector De La Torre (D-South Gate) is authoring Assembly Constitutional Amendment 8 (to be placed on the 2008 ballot) and a companion statutory measure (to be amended soon). Together, this package would:

✓ **Protect Homeowners from Eminent Domain by:**

- Prohibiting the State or local governments from using eminent domain to acquire an owner-occupied home for transfer to another private party. This provision would prohibit the taking of owner-occupied homes, townhomes and condos through eminent domain to make way for a private development. (ACA 8)

✓ **Protect Small Businesses from Eminent Domain by:**

- Prohibiting the State and local governments from using eminent domain to acquire property where a small business is located to transfer to another private party, except as part of a comprehensive plan to eliminate blight and only after the small business owner is first given the opportunity to participate in the revitalization plan. (ACA 8)
- If the small business does not participate in the revitalization plan it can choose between relocating or receiving the value of the business. If the small business relocates, it will receive:
 - Fair market value of the real property (if owned by the small business).
 - All reasonable moving expenses.
 - Expenses to reestablish the business at a new location, up to \$50,000.
 - Compensation for the increased cost of rent or mortgage payments for up to 3 years.(Statutory Measure)
- If the small business does not elect to relocate it will receive:
 - Fair market value of the real property (if owned by the small business).
 - 125% of the value of the business if the business could not have been relocated and remain economically viable.(Statutory Measure)

✓ **Owner's Right to Repurchase Acquired Property.**

- A home or small business acquired by eminent domain must be offered for resale to the original owner if the government does not use the property for a public use. The state or local government shall use reasonable diligence to locate the property owner.
- (ACA 8)

C/CAG AGENDA REPORT

AB 1223

Date: June 14, 2007
To: C/CAG Legislative Committee
From: Richard Napier, C/CAG Executive Director
Subject: **REVIEW OF LEGISLATIVE PRIORITIES**

Note: A position may be taken on any legislation, including legislation not previously identified.

(For further information contact Richard Napier at 599-1420)

RECOMMENDATION

That the Legislative Committee approve the attached monthly update report on pending legislation.

FISCAL IMPACT

Not applicable.

SOURCE OF FUNDS

Not applicable.

BACKGROUND/DISCUSSION

A list of bills identified as related to C/CAG priorities, positions taken by other entities.

C/CAG Sponsored Bills – Current Status

SB 613 – reauthorization of AB 1546 has passed out of Senate and will be heard in the Assembly. First Assembly Committee hearing will be on June 27, 2007.

AB 468 – Abandoned Vehicle Abatement passed on the Assembly Floor and will be heard in the Senate. Meeting has not been set.

June 8, 2007 is the last day to pass bills out of house of origin. Therefore, some bills on this list may be dropped.

ATTACHMENTS

- C/CAG priorities as of June 2007.
- Status of bills supported by C/CAG

C/CAG LEGISLATIVE PRIORITIES FOR 2007 June Update

No	Prop	Relevant Bills	Description	C/CAG	MTC	LOCC	CSAC
Priority #1 Increase Funding AND Secure stable funding to pay for increased NPDES mandates.							
			1.1 Primary focus on maximizing funds from the adopted infrastructure bonds.				
	84	AB 1297	Regional water management			S	
	84	AB 1315	Flood protection			S	
	84	SB 732	Guidelines and definitions			S	
	1E	SB5	Flood management			S	
		SCA 12	Eliminate 2/3 majority vote for stormwater	pending		W	S
		AB 1338	Local coastal programs: nonpoint source pollution	pending		S	

S = Support O = Oppose N = Neutral W = Watch

- 1.2 Support efforts to exempt NPDES from the super majority voting requirements
- 1.3 Include NPDES as a priority for funding in new sources of revenues (i.e. water bonds).
- 1.4 Advocate for C/CAG and San Mateo County jurisdictions to be identified as a pilot project to receive earmarked funding.
- 1.5 Support efforts to reduce NPDES requirements as a way to stimulate business development while still working to improve the quality of the Ocean, Bay, streams, creeks, and other waterways.
- 1.6 Support efforts to reform the NPDES program while still working to improve the quality of the Ocean, Bay, streams, creeks, and other waterways.
- 1.7 Support efforts to place the burden/ accountability of reporting, managing and meeting the NPDES requirements on the responsible source not the City or County.
- 1.8 Oppose efforts to require quantitative limits and Total Maximum Daily Load (TMDL) measures since there are insufficient scientific methods to evaluate the benefits. For this reason C/CAG instead supports the implementation of Best Management Practices (BMP's) to the maximum extent practicable.

C/CAG LEGISLATIVE PRIORITIES FOR 2007 June Update

No	Prop	Relevant Bills	Description	C/CAG	MTC	LOCC	CSAC	CALCOG
Priority #2 Preserve Funding								
Protect against the diversion of local revenues including the protection of redevelopment funds and programs.								
2.1	Support League and CSAC Initiative to protect local revenues including interpretation and implementation of							
		AB 1256	housing density bonus					
		AB 1449	housing density bonus					
		AB 1091	TOD Implementation					
2.2	The 20% redevelopment housing set aside is the primary source of housing funds for cities and counties and must be protected and preserved.							

2.3 ADDED Legislation supported by CCAG

	AB 23	Pedestrian Countdown Near Schools or Senior Centers	\$	\$				
	AB 239	Recording fees: Contra Costa and San Mateo Counties	S					
	AB 1493	Affordable Housing Innovation-Fund: housing trust fund.	\$					
	AB 1254	Property tax revenue allocations: ERAF reduction: affordable housing	S					
	AB 468	Abandoned Vehicle Abatement	S					
	SB 279	State highways: public nuisance.	S					
	SB 613	Reauthorization of \$4 motor vehicle fee	S					

S = Support O = Oppose N = Neutral

C/CAG LEGISLATIVE PRIORITIES FOR 2007 June Update

No	Prop	Relevant Bills	Description	C/CAG	MTC	LOCC	CSAC	CALCOG
Priority #2 Preserve Funding Protect against the diversion of local revenues including the protection of redevelopment funds and programs.								
2.4 ADDED Implementation of 2006 Bond Funds, Prop 1A, 1B, 1C								
	1B	AB 412	Project Delivery deadlines			\$		
	1B	AB 995	Allocation of proceeds			\$		
	1B	AB 1170	Eligibility and application of funds			\$		
	1B	AB 1227	Local Streets and Roads			\$		
	1B	AB 1351	Priority to self help counties			\$		
	1B	AB 1672	Implementation			\$		
	1B	SB 9	Trade corridors			\$		
	1B	SB 47	Allocation of bond proceeds			\$		
	1B	SB 286	Local streets and roads	S		\$	S	
	1B	SB 748	Implementation State and Local Partnerships		S	\$		
	1C	AB 29	Infill incentive			\$		
	1C	AB 792	allocation of \$100 M in housing-innovation funds			\$		
	1C	AB 1231	Infill development and incentive-grants			\$		
	1C	AB 1675	TOD implementation			\$		
	1C	SB 46	Implementation			\$		
	1C, 84	SB 292	Allocation criteria			\$		
		SB 303	Housing element law	O		O	pending	O

C/CAG LEGISLATIVE PRIORITIES FOR 2007 June Update

No	Prop	Relevant Bills	Description	C/CAG	MTC	LOCC	CSAC	CALCOG
Priority #2 Preserve Funding								
Protect against the diversion of local revenues including the protection of redevelopment funds and programs.								
	1C	SB 522	Infill incentives			\$		
	1C	SB 546	Housing levels			\$		
	1C	SB 586	Affordable housing			\$		
	84	AB 832	implementation			\$		
	84	AB 1253	Funding for local planning			\$		\$
	84	AB 1303	Grants and loans for local agencies			\$		
	84	AB 1602	Greening programs			\$		
	84	SB 167	General plans, grants and incentives			\$		
	84	SB 763	Timely cleanup of brownfields			\$		
		AB 57	Safe Routes to Schools					

C/CAG LEGISLATIVE PRIORITIES FOR 2007 June Update

No	Prop	Relevant Bills	Description	C/CAG	MTC	LOCC	CSAC
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Priority #3 Preserve Funding / Maintain Cost

Protect against increased local costs resulting from State action without 100% State reimbursement for the added costs.

Ensure that there is real local representation on State Boards and Commissions that are establishing policies and 3.1 requirements for local programs.

ACA 8	Eminent Domain	pending	S	S
AB 887	Eminent Domain	be amended		
ACA 2	Eminent Domain			
SB 698	Eminent Domain			

Advocate for the appointment of Administration Officials who are sensitive to the fiscal predicament faced by 3.2 local jurisdictions

3.3 Oppose State action to dictate wage and benefits for local employees.

3.4 Oppose State action to restrict the ability of local jurisdictions to contract for services.

3.5 Advocate for State actions that are required to take into consideration the fiscal impact to local jurisdictions.

Bills Supported by CCAG

AB 101 (Ma) **Vehicles: parking enforcement: videotaped evidence.** (A-05/09/2007 [html](#) [pdf](#))
Status: 05/23/2007-Referred to Coms. on T. & H. and JUD.

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Summary: Would authorize the City and County of San Francisco (San Francisco), until January 1, 2012, to enforce parking violations in transit-only lanes and during street sweep hours through the use of videotaped evidence. The City and County of San Francisco would be authorized to install videotape cameras on city-owned public transit vehicles and city-owned street sweepers for the purposes of videotaping these parking violations. A designated employee would be required to review the videotape for determining whether these parking violations had occurred and to issue a notice of a parking violation to the registered owner within 15 days of the violation. If San Francisco implements a pilot program authorized by this bill, San Francisco would be required, on or before July 1, 2011, to submit to the transportation committees of the Legislature an assessment on the effectiveness of the pilot program.

Vote Events:

05/14/2007 ASM. FLOOR (Y:72 N:0 A:7)

05/07/2007 ASM. TRANS. (Y:14 N:0 A:0)

Position: Support in concept

Priority: 2

Subject: Transportation - Roads,

AB 239 (DeSaulnier) **Recording fees: Contra Costa and San Mateo Counties.** (A-04/30/2007 [html](#) [pdf](#))

Status: 05/30/2007-In Senate. Read first time. To Com. on RLS. for assignment.

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Summary: Would authorize the Contra Costa County Board of Supervisors or the San Mateo Board of Supervisors to additionally charge a flat fee of not more than \$25, as specified for each document that is recorded, if the document is in excess of one page, for every real estate instrument, as defined, paper, or notice required or permitted by law to be recorded in Contra Costa County or San Mateo County. The bill would require the Contra Costa County Board of Supervisors or the San Mateo County Board of Supervisors, if it charges this fee, to establish a fund for deposit of the moneys raised by the increase, which shall be used to assist in the development of affordable housing for extremely low income households, very low income households, lower income households, and moderate-income households. This bill contains other related provisions.

Vote Events:

05/29/2007 ASM. FLOOR (Y:42 N:35 A:3)

05/09/2007 ASM. H. & C.D. (Y:5 N:2 A:0)

03/28/2007 ASM. L. GOV. (Y:5 N:2 A:0)

Position: Support

Priority: 1

Subject: Housing,

AB 468 (Ruskin) **Vehicles: abatement of abandoned vehicles.** (A-06/01/2007 [html](#) [pdf](#))

Status: 06/04/2007-Read second time. To third reading.

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Summary: Would authorize the service authority to use the fees imposed, as well as the moneys received from the Abandoned Vehicle Trust Fund for the costs associated with the

enforcement of the ordinance adopted by the service authority . The service authority would be prohibited from offsetting the costs of vehicles towed under authorities other than the ordinance adopted by the service authority or when the costs are recovered by another provision of law. The service authority would be authorized to carry forward unexpended money in a fiscal year to the following fiscal year for the abandoned vehicle abatement program upon agreement with its member agencies . The service authority would be prohibited from carrying out an abandoned vehicle abatement from private property unless a 10-day notice has been issued for the abandoned vehicle and that period has expired. This bill contains other related provisions and other existing laws.

Vote Events:

05/31/2007 ASM. APPR. (Y:12 N:5 A:0)

04/09/2007 ASM. TRANS. (Y:10 N:4 A:0)

Position: Sponsor

Priority: 1

Subject: Vehicle Abatement,

AB 1254 (Caballero) Property tax revenue allocations: ERAF reduction: affordable housing. (I-02/23/2007 [html](#) [pdf](#))
Status: 06/01/2007-Failed Deadline pursuant to Rule 61(a)(5). Last location was APPR. SUSPENSE FILE

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Summary: Would for the 2008-09 fiscal year and each fiscal year thereafter to the 2014-15 fiscal year, inclusive, require the county auditor to reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to the county ERAF by the countywide affordable housing amount, as defined, and to increase the amount of ad valorem property tax revenue otherwise required to be allocated to a qualified local agency, as defined, by that agency's affordable housing amount. This bill would specify that a qualified local agency's affordable housing amount is equal to the ad valorem property tax revenue lost by the agency as a result of the granting of a specified exemption from property taxes for affordable housing developments for which certificates of occupancy are issued on or after January 1, 2008, as provided. This bill contains other related provisions and other existing laws.

Vote Events:

04/11/2007 ASM. L. GOV. (Y:4 N:2 A:1)

Position: Support

Priority: 1

Subject: Housing,

SB 33 (Simitian) Vehicles: wireless telephones and mobile service devices. (A-04/23/2007 [html](#) [pdf](#))
Status: 05/17/2007-To Com. on TRANS.

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Summary: on and after July 1, 2008, would prohibit a person under the age of 18 years from driving a motor vehicle while using a wireless telephone equipped with a hands-free device or while using a mobile service device, as defined. The prohibition would not apply to such a person using a wireless telephone or a mobile service device for emergency purposes. By creating a new infraction, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Vote Events:

04/26/2007 SEN. FLOOR (Y:21 N:15 A:4)

03/27/2007 SEN. T. & H. (Y:8 N:2 A:1)

Position: Staff - support

Priority: 3

Subject: Public Safety,

SB 279 (Yee) State highways: public nuisance. (A-04/10/2007 [html](#) [pdf](#))

Status: 05/17/2007-To Com. on TRANS.

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Summary: Would provide that peace officers from a local law enforcement agency may enforce these provisions .

Vote Events:

04/16/2007 SEN. FLOOR (Y:30 N:5 A:5)

03/27/2007 SEN. T. & H. (Y:8 N:1 A:2)

Position: Support

Subject: Transportation-All,

SB 286 (Lowenthal) **Transportation bonds: implementation.** (A-06/04/2007 [html](#) [pdf](#))

Status: 06/04/2007-From committee: Do pass as amended. (Ayes 16. Noes 0.) Read second time. Amended. To third reading.

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Summary: Would require the first payments of bond funds for local street and road purposes to be allocated by the Controller no later than January 1, 2008 . The bill would require the Controller to use the population figures from the Department of Finance as of January 1, 2007, in making allocations to cities. The bill would require an applicant for these funds to submit a list of projects expected to be funded with bond funds to the Department of Finance, as specified, and to report various information to the Department of Finance. The bill would require funds to be expended within 3 fiscal years from the date of allocation, and would require unexpended funds to be returned to the Controller for reallocation. The bill would make other related changes. This bill contains other related provisions.

Vote Events:

05/31/2007 SEN. APPR. (Y:16 N:0 A:1)

05/21/2007 SEN. APPR. (Y:16 N:0 A:1)

04/24/2007 SEN. T. & H. (Y:10 N:1 A:0)

Position: Support

Subject: Transportation - Other,

SB 613 (Simitian) **Local governments: vehicle fee for congestion and stormwater management.** (A-04/12/2007 [html](#) [pdf](#))

Status: 05/17/2007-To Coms. on L. GOV. and TRANS.

Dead/2YR	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Summary: Would provide that the City/County Association of Governments of San Mateo County may reauthorize that fee for a period of 10 years until January 1, 2019 , as specified .

Vote Events:

04/16/2007 SEN. FLOOR (Y:21 N:15 A:4)

04/10/2007 SEN. T. & H. (Y:6 N:4 A:1)

Position: Sponsor

Priority: 1

Subject: Transportation-All,Stormwater (NPDES),

Total rows: 8